

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

IN THE MATTER OF :

THE JOINT APPLICATION OF ORCHARD)
GRASS UTILITIES INC. AND OLDHAM)
COUNTY SANITATION DISTRICT FOR)
APPROVAL OF THE TRANSFER OF)
WASTE WATER TREATMENT FACILITIES)
PURSUANT TO STOCK PURCHASE)
AGREEMENT BETWEEN THE PARTIES)

RECEIVED
CASE NO. MAR 31 2004
2004 - 00029
PUBLIC SERVICE
COMMISSION

RESPONSE OF ROBERT L. MADISON TO OCSD AND OGU MOTION TO STRIKE DATED 23 MAR 2004

THIS IS THE RESPONSE OF ROBERT L. MADISON TO THE OCSD AND OGU (JOINT APPLICANTS (JA)) MOTION TO STRIKE MY REBUTTAL, DATED 16 MARCH 2004. THE JA ARGUE THAT THE REBUTTAL IS NOT RELEVANT, DOES NOT MEET REGULATORY CRITERIA, IS HEARSAY AND IS NOT AUTHORIZED BY THE PSC.

I CONTEND THAT THE REBUTTAL IS RELEVANT, IT DOES MEET REGULATORY CRITERIA AND IS ALLOWED BY THE PSC. IN MY OPINION, IT WOULD BE PREMATURE TO MAKE THESE DETERMINATIONS AT THIS TIME. THE PSC SHOULD DEFER CONCLUSIONS UNTIL ALL FACTS ARE IN, AT THE TIME OF ITS FINAL ORDER IN THIS CASE.

IN SUPPORT OF THE PSC DENYING THE JA MOTION TO STRIKE I STATE THE FOLLOWING :

1. I HAVE NOT RECEIVED A COPY OF THE JA MOTION BY MAIL. I PRESUME THIS WAS AN INTENTIONAL ACT OF BAD FAITH BY THE JA BY MAKING A MOTION TO STRIKE AND NOT EVEN MAILING A COPY TO ME.

2. MY REBUTTAL DOES ADDRESS THE ISSUES OF WHETHER OCSD HAS THE REQUISITE ABILITIES TO PROVIDE REASONABLE UTILITY SERVICE AND WHETHER THE PROPOSED TRANSFER IS TO BE MADE IN ACCORDANCE WITH LAW, FOR A PROPER PURPOSE AND IS CONSISTENT WITH THE PUBLIC INTEREST. (KRS 278.020 (4) & (5).

A. A LARGE INCREASE IN SEWAGE RATES MAY NOT BE REASONABLE SERVICE.

B. KENTUCKY STATE SANCTIONS WITH THE TRAILS END SEWAGE PLANT, SINCE THE TRANSFER TO OCSD, MAY SHOW THAT OCSD LACKS THE TECHNICAL AND MANAGERIAL ABILITIES. (KRS 278.020 (4)).

C. THE ISSUES OF JURISDICTION OF TWO DIFFERENT COUNTIES MAY BE RELEVANT TO WHETHER THE ACTION IS IN ACCORDANCE WITH THE LAW.

D. ISSUES RELATED TO FUTURE DRAINAGE FEES AND FUTURE PERCENTAGE INCREASES BY MSD MAY IMPACT SEWAGE RATES AND MAKE THE SERVICE NOT REASONABLE.

E. MISUSE BY OTHER GOVERNMENT ENTITIES AND MSD OF SEWAGE DRAINAGE FEES FOR PROGRAMS NOT RELATED TO SEWAGE MAY BE AN ISSUE WHERE CONDITIONS MAY NEED TO BE IMPOSED IF THE TRANSFER IS APPROVED. (KRS 278.020 (5))

F. THE ISSUE OF PROBABILITY OF DROUGHT CONDITIONS IN OLDHAM COUNTY MAY RELATE TO CONDITIONS THAT MAY HAVE TO BE IMPOSED IF THE TRANSFER IS APPROVED. (KRS 278.020 (5))

G. MY REBUTTAL MAY SHOW PROBLEMS WITH THE CREDIBILITY OF THE DATA RESPONSES. CREDIBILITY AFFECTS MULTIPLE ISSUE IN THE PSC DETERMINATION OF APPROVAL.

H. IF THERE ARE QUALITY PROBLEMS WITH THE PLANTS(S) THIS IS IN DISAGREEMENT WITH THE JOINT APPLICATION. THIS ISSUE NEEDS TO BE RESOLVED.

I. IF A CONFLICT OF INTEREST EXISTS BETWEEN THE OPERATOR OF THE PLANT(S) AND THE REGULATOR, THIS ISSUE MAY NEED TO BE EXPLORED.

3. THE PSC ORDER DATED 20 FEB 2004 (PAGE 2, ITEM 3) ADDRESSES THE ISSUE OF PLACING DOCUMENTS IN THE RECORD. IT IS A GOOD FAITH EFFORT FOR ME TO PROVIDE THIS REBUTTAL DOCUMENTS AND INFORMATION, EARLY IN THE PROCESS, SO ALL PARTIES WILL HAVE A REASONABLE AMOUNT OF TIME TO EVALUATE AND RESPOND TO THE DEVELOPING FACTS, ISSUES, ARGUMENTS AND CONCLUSIONS.

4. THE RIGHT TO REBUTTAL IS ONE OF DUE PROCESS AND NEED NOT SPECIFICALLY BE INCLUDED IN A PROCEDURAL SCHEDULE.

5. THE NEWSPAPER ARTICLES INCLUDE PUBLIC STATEMENTS OF OLDHAM COUNTY SEWER BOARD MEMBERS AND OLDHAM COUNTY MAGISTRATES (WHO APPOINT AND APPROVE THE SEWER BOARD MEMBERS AND APPROVE / DISAPPROVE / MODIFY SEWER BOARD RECOMMENDATIONS) WHICH REBUT SOME OF THE DATA REQUESTS.

6. THE MAPS MAY ASSIST THE PSC IN FULLY PRESENTING ISSUES, DEVELOPING FACTS AND FULLY CONSIDERING THE MATTERS. (807 KAR 5:001 (3) (8)).

7. THE RULES FOR EVIDENCE AND HEARSAY ARE DIFFERENT IN PSC PROCEEDINGS AND COURT PROCEEDINGS. THE JA ARGUMENTS RELATED TO THESE ISSUES ARE MISPLACED.

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DATE : 29 MAR 2004

ROBERT L. MADISON MOVES THE PSC TO DENY THE JA MOTION TO STRIKE MY REBUTTAL, DATED 16 MAR 2004.

I CERTIFY THAT ON 29 MAR 2004, COPIES OF THIS LETTER WERE MAILED REGULAR MAIL TO ALL PARTIES OF RECORD.

SINCERELY,

A handwritten signature in black ink that reads "Robert L. Madison". The signature is written in a cursive style with a large initial 'R'.

ROBERT L. MADISON
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LOUISVILLE KY 40241-1318
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